

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER 98-0541**  
**Responsible Officer**  
**Sales Tax**  
**For Tax Periods: 1996-1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

**ISSUES**

**1. Responsible Officer Liability – Duty to Remit Sales Taxes**

**Authority:** IC 6-2.5-9-3.

Taxpayer disputes the determination that he had a duty to remit the corporation's sales taxes.

**STATEMENT OF FACTS**

The Indiana Department of Revenue timely assessed the corporation liabilities for sales taxes unpaid to the state for 1996-1998. The corporation did not remit these taxes and the Indiana Department of Revenue assessed the liabilities against Taxpayer as a responsible officer of the corporation. Taxpayer protested this assessment. More facts will be provided as necessary.

**RESPONSIBLE OFFICER LIABILITY – DUTY TO REMIT SALES TAXES**

The sales taxes for 1996-1998 that the corporation failed to remit were personally assessed against Taxpayer pursuant to IC 6-2.5-9-3 which provides that:

An individual who:

- (1) is an ...officer. . .of a corporate. . . retail merchant; and
  - (2) has a duty to remit state gross retail or use taxes to the department of revenue;
- holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

Taxpayer submitted a copy of a Stock Purchase Agreement and Resignation Letter which indicate that Taxpayer sold all his stock in the corporation and resigned his positions as a member of the Board of Directors, Vice-President and Treasurer of the corporation on December 20, 1991. Since Taxpayer has not been an officer since December 20, 1991, Taxpayer cannot be held personally responsible for any sales taxes that the corporation fails to remit after December 20, 1991.

**FINDING**

Taxpayer's protest is sustained.